III. REMARKS

Claims 1, 2, 4-5, 7, 9-10, 12, 14 and 16-21 are pending in this application. Claims 1, 4, 7, 9, 12, 14, 16, and 18-20 have been amended, while claims 6, 11, 15 and 22 have been cancelled. Support for these amendments is found in Applicant's original specification, including for example, at pages 9-10. Applicant is not conceding in this application that those claims are not patentable over art cited by the Examiner, as the present claim amendments and cancellations are for facilitating expeditious allowance of the claimed subject matter. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. 1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Specifically, the features of claims 6, 11, 15 and 22 have been incorporated into claims 1, 7, 12 and 20, respectively. Accordingly, Applicants respectfully request entry of this Amendment.

In the Office Action, claims 1, 2, 4-7, 9-12 and 14-22 are rejected under 35 U.S.C. 101 as being allegedly drawn to non-statutory subject matter. Additionally, the Office rejected claims 1, 2, 4-7, 9-12, 14 and 15 under 35 U.S.C. 103(a) as allegedly being unpatentable over Rooney ('Intelligent Resource Director', 2002), hereinafter "Rooney", in view of Kyne ('z/OS Intelligent Resource Director', 2001), hereinafter "Kyne", and in further view of Buttlar ("z/CECSIM: An Efficient and Comprehensive Microcode

Simulator for the IBM eServer z900", 2002), hereinafter "Buttlar." Even further, the Office rejected claims 16-22 under 35 U.S.C. 103(a) as allegedly being unpatentable over Rooney in view of Buttlar. Applicant respectfully asserts that the amended claims are in condition for allowance.

With respect to claim rejections under 35 U.S.C. 101, Applicant respectfully submits that the claims are in condition for allowance. Applicant has amended claims 1, 7, 16, 18, 19 and 20 in response to the Office's rejections. Specifically, claims 1, 16 and 19 has been amended to read, "… outputting and displaying the behavior of the modeling." (Claim 1, 16 and 19). Claims 1, 16 and 19 are drawn to the output and display of generated modeling behavior. Displaying the behavior of the modeling is a tangible, physical result of the method steps contained with the above-mentioned claims. Support for this amendment is found throughout Applicant's specification. Further, claims 7, 18 and 20 have been amended to read, "… at least one computer comprising…" (Claims 7, 18 and 20). The computerized systems of claims 7, 18 and 20 are not computer programs per se, and produce tangible, physical results through the use of hardware components. Support for these amendments is found generally in Applicant's specification, and more specifically at pages 1 and 3. As the above-referenced claims are drawn to statutory subject matter, Applicant requests withdrawal of the rejections.

With respect to claim rejections under 35 U.S.C. 103(a), currently amended claim 1 reads in part:

"…calculating a time slice percentage for the LPAR based on the resource percentage and CP (central processor) data, wherein:

$$\text{time slice percentage} = \frac{(\text{resource percentage}) \times (\text{\# of physical CPs})}{(\text{\# of logical CPs})}\ldots"$$

(Claim 1, and similarly recited in claims 7 and 12).

The Office asserts that Kyne discloses "calculating the time slice percentage through the preceding equation." (Office action at 6; Kyne at 55). However, Kyne fails to disclose such an equation. Kyne specifically discloses a formula used for its "default time slice" as: "(25 ms * number of physical CPs) / (total number of logical CPs not in stopped state)." (Kyne at 55). The Kyne formula highlighted by the Office is not only directed to a <u>quantity</u> (*ms* measurement), but it is calculated using a "default duration." (Kyne at 55, 58). In contrast, the time slice percentage of claim 1 is dependent upon, *inter alia*, a "resource percentage." Resource percentage is defined within Applicant's claim 1 as: "100% - a percentage of resources allocated to all other LPARs running in the simulated computer..." (Claim 1, and similarly recited in claims 7 and 12). Neither the Office nor the reference suggest that the "resource percentage" as defined in claim 1 and the "default duration" of Kyne are equivalents. Further, while Kyne discloses an alternative method of determining its time slice ("LPAR dynamically determined), that method fails to disclose the features of claim 1, discussed above. As such, Kyne does not disclose the "time slice percentage" of claim 1. Accordingly, Applicant requests withdrawal of the rejection.

Applicant hereby incorporates the above arguments with respect to claims 7 and 12. As such, Applicant submits that the claims are in condition for allowance, and respectfully requests withdrawal of the rejections.

Further, currently amended claim 16 reads in part, "…for each model that has an observed consumption that does not agree with the defined consumption, <u>feeding the observed consumption back to the other models</u>…" (Claim 16, and similarly recited in claims 18-20)(Emphasis added). The Office posits that Rooney discloses, feeding the observed consumption back to the other models. (Office action at 10)(Rooney at 575). In support of its assertion, the Office points to Rooney's "donor selection" process. (*Id.*). Unlike the features of claim 16, Rooney discloses a method in which "processor weight" is shifted from a "low-importance" logical partition, to a "high importance" logical partition. (Rooney at 575). The "processor weight" of Rooney is, at best, processing capacity. Processing capacity itself is being transferred from one logical partition to another in the system of Rooney. In contrast, claim 16 recites feeding <u>observed consumption</u> from each model that does not agree with the defined consumption, back to the other models. This "observed consumption" is information about the quantity of a model's resources actually being used, and "feeding" said observed consumption back to other models is not equivalent to transferring unused weight (or capacity) between logical partitions, as discussed in Rooney.

Even further, Rooney merely contemplates transferring "weight" from <u>one</u> low-importance logical partition to <u>one</u>, high-importance logical partition. Rooney specifically discusses "… determining whether increasing the weight of <u>the partition</u> is the appropriate action…" and "…choosing <u>a logical partition</u> from which to take weight…" (Rooney at 575)(Emphasis added). However, Rooney does not contemplate "feeding the observed consumption back to the other <u>models</u>." (Claim 16)(Emphasis added). Claim 16 describes, *inter alia*, a method whereby the observed consumption of

each model that does not agree with the defined consumption is fed back to the other models. Therefore, the observed consumption described in claim 16, is capable of, *inter alia*, being fed to a "plurality of logical partitions." (Claim 16). Rooney discloses no such capability. As such, Rooney fails to disclose, *inter alia*, "…for each model that has an observed consumption that does not agree with the defined consumption, feeding the observed consumption back to the other models…" Accordingly, Applicant requests withdrawal of the above-referenced rejections.

Applicant hereby incorporates the above arguments with respect to rejections of claims 18-20. As such, Applicant submits that the claims are in condition for allowance, and respectfully requests withdrawal of the rejections.

Buttlar fails to overcome the deficiencies of Kyne and Rooney, discussed above. As such, Applicant requests withdrawal of rejections based upon any and all combinations of Rooney, Kyne and Buttlar.

The dependent claims are believed allowable for the same reasons stated above, as well as for their own additional features.

Applicant respectfully submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Examiner's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Examiner's analysis, combinations, and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Examiner's combinations and modifications have not been

separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is requested to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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